

rejection are requested.

Applicant previously submitted a declaration under 37 CFR §1.131 by the inventor of the current application, Kevin K. Funk. In the Final Office action, however, the Examiner takes the position that this declaration is ineffective to overcome the applicable references. The Examiner advances several reasons in support of this position. For the record, applicant does not agree with Examiner's reasons in this regard and applicant asserts that the previously submitted declaration is sufficient to overcome the references.

In an effort, however, to expedite the allowance of the application, applicant has, nevertheless, submitted herewith a new declaration under 37 CFR §1.131. Relative to the previously submitted declaration, the new declaration establishes additional facts and includes additional Exhibits in support thereof relating to the categories of conception, actual reduction to practice and diligence. It is believed that the new declaration addresses all of the Examiner's concerns regarding the previously submitted declaration.

The new declaration establishes that an actual reduction to practice of the current invention occurred on March 20, 1997 (see paragraphs 11-17 of the declaration). Since this actual reduction to practice predates the publication date of the Kimura reference (i.e., January 6, 1998), the declaration establishes that Kimura is not prior art relative to the current claims. Accordingly, the Examiner's rejection overcome.

## **II. Rejection of Claim 13 under 35 U.S.C. §102(e)**

Claim 13 stands rejected under 35 U.S.C. §102(e) as being clearly anticipated by Zvonar et al. (U.S. Patent No. 5,828,989) or Zvonar et al. (U.S. Patent No. 5,942,739). Reexamination and reconsideration of the Examiner's rejection are requested.

It is noted that both of the Zvonar et al. patents applied by the Examiner were filed on January 22, 1997. As discussed above, submitted herewith is a new declaration under 37 CFR §1.131 by the inventor of the current application, Kevin K. Funk. This declaration establishes that conception of the instant invention occurred prior to January 22, 1997 (see paragraphs 2-10 of the declaration). The declaration further establishes that an actual reduction to practice occurred on March 20, 1997 (see paragraphs 11-17 of the declaration), and that there was diligence from a time prior to January 22, 1997, to the time of actual reduction to practice (see paragraphs 18-24 of the declaration). Accordingly, the declaration establishes that the Zvonar et al. patents are not prior art relative to the current claims. Thus, the Examiner's rejection is overcome.

## **III. Rejection of Claims 14-18 under 35 U.S.C. §103(a)**

Claims 14-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kimura (Japanese Patent No. JP410004042A - Application No. JP08177051) as applied to claim 13 and further in view of certain portions of applicant's disclosure. Reexamination and reconsideration of the Examiner's rejection are requested.

Claims 14-18 are allowable at least as depending

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from allowable base claim 13.

**IV. Rejection of Claims 14-18 under 35 U.S.C. §103(a)**

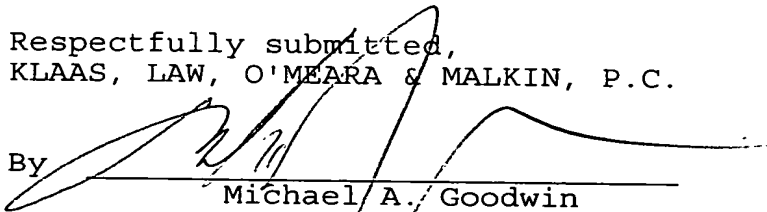
Claims 14-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Zvonar et al. (U.S. Patent No. 5,828,989) or Zvonar et al. (U.S. Patent No. 5,942,739) as applied to claim 13 and further in view of certain portions of applicant's disclosure. Reexamination and reconsideration of the Examiner's rejection are requested.

Claims 14-18 are allowable at least as depending from allowable base claim 13.

In view of the above, all of the claims are now believed to be in condition for allowance. Re-examination and reconsideration are requested.

Respectfully submitted,  
KLAAS, LAW, O'MEARA & MALKIN, P.C.

By



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